

**MEMORANDUM**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
***Piedmont Regional Office***

4949-A Cox Road, Glen Allen, Virginia 23060-6295

804/527-5020

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**SUBJECT:** Summary of Comments Received During Public Comment Period VPA Permit No. VPA00845, Rollins Soil Enhancement, Inc. - Westmoreland County – Blending of Class A Exceptional Quality Biosolids and Distribution & Marketing of Soil Enhancement Materials

**TO:** Michael Murphy, Piedmont Regional Office Director, James Golden, Deputy Director for Program Development Office of Exec Mgmt/Public Constituent Affairs

**FROM:** Anita Tuttle

**DATE:** 8 January 2015

**COPIES:** Kyle Winter, file

Background

Virginia Code § 62.1-44.15 authorizes the State Water Control Board to promulgate regulations necessary to carry out its powers and duties. Specifically, § 62.1-44.19:3 requires the State Water Control Board to include in regulation certain requirements pertaining to land application of sewage sludge (biosolids). On January 1, 2008 the Virginia Department of Environmental Quality (DEQ) assumed regulatory oversight of all land application of sewage sludge that has received an established treatment, commonly referred to as biosolids. This change in oversight of the Biosolids Use Regulations from the Virginia Department of Health (VDH) to DEQ was at the direction of the 2007 General Assembly, which voted to consolidate the regulatory programs so that all persons managing would be subject to uniform requirements, and to take advantage of the existing compliance and enforcement structure at DEQ. In addition to directing that DEQ manage the biosolids program, the General Assembly also added additional requirements regarding biosolids permitting and management.

§62.1-44.19:3. of the Code of Virginia prohibits the land application, marketing and distribution of sewage sludge (biosolids) without a permit. Requirements for the adoption of regulations by the Board, public notice and fees are also included in this section. 62.1-44.19:3.A.3 also specifies that: *No person shall contract or propose to contract, with the owner of a sewage treatment works, to land apply, market or distribute sewage sludge in the Commonwealth, nor shall any person land apply, market or distribute sewage sludge in the Commonwealth without a current Virginia Pollution Abatement Permit authorizing land application marketing or distribution of sewage sludge and specifying the location or locations, and the terms and conditions of such land application, marketing or distribution.*

The DEQ Piedmont Regional Office received an application from Rollins Soil Enhancement, Inc. on 17 April 2014 for a permit to allow the construction and operation of a facility for blending, composting, storage and distribution & marketing of biosolids in the preparation of soil enhancement materials. Requested revisions to the application were completed by 13 May 2014 when the permit application was deemed administratively and technically complete. Due to technical difficulties in drafting the permit to include all phases of the requested activity, DEQ staff drafted a permit to authorize the blending,

**distribution & marketing of Class A Exceptional Quality Biosolids such that Rollins Soil Enhancement, Inc. might pursue the issuance of a Certificate to Construct the facilities while awaiting the agency initiated modification to the permit to authorize all requested activities.**

#### Public Notice

The draft permit public notice appeared in the *Westmoreland News* on 19 November and 26 November 2014. The comment period began 20 November and ended on 22 December 2014.

#### Public Comments

During the draft permit comment period, DEQ - PRO received two emails from Carla Jordan in Westmoreland County, consisting of a petition signed by 45 residents of the county on 12/16/2014 and the same petition signed by an additional 84 residents of the county on 12/22/2014 constituting two requests for public hearing. The text of the petition is reproduced as an attachment to this memorandum. In addition, DEQ received four other written comments during the comment period. The concerns expressed are summarized below and are followed by the staff response.

#### DEQ Response to Comments

Each comment is addressed below with the DEQ-PRO response, referencing VPA permit conditions for biosolids land application and biosolids regulations 9VAC25-10 et seq., STATE WATER CONTROL BOARD Amendment of Regulations Pertaining to Biosolids After Transfer from the Department of Health. Also referenced is the HJR 694 Biosolids Expert Panel Final Report.

1. *Request for Virginia Department of Transportation (VDOT) studies, concern for road/ traffic issues (Jan Grubic, Carla Jordan et al)*

Staff Response: DEQ does not request VDOT examination of roads proposed to be used by permit applicants. Any DEQ permit holder is responsible for complying with all statutes and regulations of the Commonwealth in conducting the DEQ permitted activity.

2. *Request for a state study on the potential tourism impact of the proposed permit (Carla Jordan et al.)*

Staff Response: DEQ does not request impact studies from other commissions or boards for the issuance of permits that are authorized by statute and regulation in § 62.1-44.19:3.4.B of the Code of Virginia and the VPA Regulation, 9 VAC 25-32.

3. *Request for an additional sixty (60) days for public comments and information requests; notice to the County Administrator of the receipt of a permit application was dated 13 May 2014 while the Draft Permit Notice appeared in the Westmoreland News on 26 November, the day prior to Thanksgiving (Carla Jordan et al.)*

Staff Response: DEQ is subject to the provisions of the Administrative Process Act and provides public notice and establishes comment periods accordingly. Draft Permit Notices are required to appear in a newspaper of local circulation for two consecutive weeks. The first notice appeared in



the 19 November edition of the *Westmoreland News*, followed by the second appearance of the notice on 26 November. Permit applications must be processed over a period of time that varies somewhat with each submission. Once a permit is drafted, the public notice is scheduled.

4. *The notice does not provide a clear picture of the activities proposed under the permit application (Carla Jordan et al.)*

Staff Response: Rollins Soil Enhancement, Inc. submitted a comprehensive permit application for the blending, composting, storage, distribution and marketing of biosolids-based landscaping and nursery products. Due to technical issues on DEQ's part, the total permit could not be issued in a timely manner. The blending and D&M portions of the permit were drafted and advertised. This will allow RSE, Inc. to move forward with the project while awaiting the issuance of the remaining portions of the permit by DEQ. Any future modifications to the permit to include the authorization for composting and storage will be subject to additional public notice.

5. *Some of the language used within the public notice may have been misleading due to its positive connotations, environmental organizations were not explicitly notified of this draft permit (Carla Jordan et al.)*

Staff Response: The wording of public notices is developed by DEQ's Central Office and provided to Regional Offices. The language is based on § 62.1-44.19:3.4.B of the Code of Virginia and the VPA Regulation, 9 VAC 25-32. Notification is provided in accordance with statute and regulation.

6. *Issuance of this permit may negatively impact tourism in Westmoreland County; the permitted activity would be in direct conflict with activities currently existing in the County (Carla Jordan et al., Sam Truslow for The Nature Conservancy)*

Staff Response: The VPA Regulation, 9VAC25-32, requires that DEQ receive a Local Government Ordinance Form (LGOF) prior to the issuance of any biosolids permit that includes material storage. This document was signed by Mr. Norm Risavi, Westmoreland County Administrator, on 16 May 2014 and received by the Piedmont Regional Office of DEQ on 29 May 2014. The LGOF states "That the proposed location and operation of the facility is consistent with all ordinances adopted pursuant to Chapter 22 (§15.2-2200 et seq.) of Title 15.2 and §62.1-44.19:3.R. of the Code of Virginia."

7. *Opposed to the issuance of the permit for Rollins Soil Enhancement, Inc. (Jan Grubic, Carla Jordan et al., Bernardino Luna, Michelle Teter)*

Staff Response: The proposed facility is consistent with applicable statutes, regulations and ordinances in the Commonwealth of Virginia.

8. *Concern with environmental impact and drinking water (Jan Grubic, Carla Jordan et al., Bernardino Luna, Sam Truslow for The Nature Conservancy)*

Staff Response: 9VAC25-32 was promulgated to be protective of environmental quality and human health. The regulation provides for an extended setback of 400' from any public gathering place located in proximity to a biosolids operation as well as for any individual who presents a letter of request from that individual's physician.

9. *Concern for health effects and impact on property values (Jan Grubic, Bernardino Luna)*

Staff Response: Panel of Experts Convened by The Secretary of Natural Resources and The Secretary of Health and Human Resources to Study the Impact of the Land Application of Biosolids on Human Health and the Environment Pursuant to HJR 694 (2007) addressed this issue in the Final Report, House Document No. 27: *The Panel recognizes that odors from biosolids could potentially impact human health, well being and property values, but could not confirm such an impact or the extent of such an impact based on the current body of scientific literature and information presented directly to this Panel.*

10. *Request for public hearing* – Ms. Jordan et al. submitted two requests for a public hearing in Westmoreland County.

Staff response –

There are no new substantial and disputed issues involved with the issuance of this permit not typically raised in VPA draft permit issuance comment periods.

Staff Recommendations:

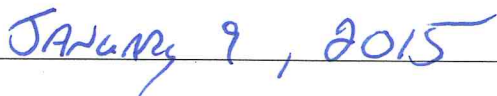
9VAC 25-230-50.A of Procedural Rule No. 1 states that for a public hearing to be granted, the Director must find that there are substantial, disputed issues relevant to the issuance of the permit in question. § 62.1-44.15:02 of the Code of Virginia states that a public hearing on a permitting action shall be held if there is significant public interest, as evidenced by the receipt of a minimum of 25 individual requests for a public hearing; that the requesters raise substantial disputed issues relevant to the permitting action; and that the action requested is not on its face inconsistent with, or in violation of, the State Water Control Law, federal law or any regulation promulgated thereunder.

The criteria for convening a public hearing have not been met. Therefore, a public hearing will not be held and staff recommends that the Department proceed with final action on the issuance of VPA permit VPA00845 to Rollins Soil Enhancement, Inc. for Blending of Class A Exceptional Quality Biosolids and Distribution & Marketing of Soil Enhancement Materials.

APPROVED: \_\_\_\_\_

  
Regional Director

DATE: \_\_\_\_\_





Attachment: Petition received from Carla Jordan et al.

12/11/14

To Whom It May Concern:

We, the citizens of Westmoreland County, are gravely concerned with the proposed facility to be built on Rappahannock Road for Rollins Soil Enhancement, Inc. of 10558 Kings Highway King George, VA 22485, VPA Permit Number 00845. We are requesting a public hearing, and the reasons for this are cited below, along with a brief, informal statement describing the citizens' interests, to include how the activity negatively impacts the citizens of this community. We are also requesting a VDOT traffic and environmental impact study on the following public roads in this county: Rt. 3 East, Claymont Rd., and Rappahannock Rd.; and we are requesting that all necessary road improvements including signage, road markings, widening, and paving be made prior to conception of this project. Finally, we are requesting a state study on the potential negative impact to tourism within a ten mile radius, and a minimum of 60 more days for the public to make comments and solicit information regarding this project prior to permitting.

The following is a brief, informal statement listing our reasons for the above demands, including the citizens' interests and a description of how this proposed activity might negatively impact the citizens of this community.

- A) The Commonwealth of Virginia Department of Environmental Quality sent a notification to Mr. Norm Risavi, County Administrator of Westmoreland County, dated May 13<sup>th</sup>, 2014, within which stated, "...notice of the draft will appear in the Westmoreland News...with an opportunity to provide comments to DEQ." The official public notice of Environmental Permit was actually published in the Westmoreland News on November 26th, 2014. This was the day before Thanksgiving, many citizens were busy with the holiday or traveling, and therefore did not know about the existence of this notice. Furthermore, the circulation for the Westmoreland News is much higher, by at least 500 papers more per month, during the months of May through September. So, in waiting until November to post the notice, many citizens who would have read the notice did not get the chance to see it. Finally, with the notice being published so late, for such a short period of time, during the holiday season, it left very little time or opportunity for the citizens of Westmoreland County to send comments or solicit further information from the DEQ. This notice should have, in all fairness and good faith, been published in the Westmoreland News multiple times over the months of May through December.
- B) The notice published in the Westmoreland News does not adequately portray the site activities proposed at the Rappahannock Road location. For instance, the notice states: production of a blended landscaping product, and marketing and distribution of the final blended product. Nowhere within that public notice does it mention construction of a new facility, storage of biosolids material, trucking, or the scope and scale of the activity. Furthermore, some of the language used within the public notice may have been misleading to local citizens. "Exceptional Quality", "landscaping product", and "Virginia Pollution Abatement", all have positive connotations; these words and phrases would most likely not explain the reality of the situation to local citizens. (Please see enclosed, photocopied

public notice that was published in Westmoreland News to confirm statements made in this section.)

- C) Some local environmental groups and organizations, which should have been notified of this proposed project, never were notified because they do not receive the Westmoreland News; and there was no known contact made from the VA Department of Environmental Quality with them. These groups include: The Virginia Conservancy Group, The Friends of the Rappahannock, and the Chesapeake Bay Watershed Foundation, among others. Once notified, representatives from these organizations may have viable information to contribute to this subject at a public hearing.
- D) The citizens and businesses of Westmoreland County hold a vested interest in the potential negative impact of this permitted activity on the community. The tourism industry is of vital importance to Westmoreland County. Within a nine mile radius of this proposed facility are: Westmoreland Berry Farm, The Voorhees Nature Preserve, Ingleside Winery and Plantation, Westmoreland State Park, George Washington's Birthplace, and Stratford Hall. Each of these tourist attraction locations receives hundreds, or in some cases, thousands of visitors each year. Many of these guests are public school children from across all areas of the state of Virginia; and a majority of visitors are bussed in on either public school buses or charter buses. These buses and tourists will take the same roads which will be congested with heavy sewer sludge tractor trailer traffic, if this facility is permitted. We must convene to honestly discuss the negative impact on the tourism industry in this area, and the public roadways. Currently, there are no road improvements slated for any of the roads in that area. Claymont road is already considered to be only in "fair" condition, according to the VA Department of Transportation. Both Claymont and Rappahannock Rd. have extremely sharp turns, are completely devoid of any road markings or lighting, and are missing signage. The turn off of Route 3 East onto Claymont Road reaches a width of 217". Claymont road narrows at some places, including in front of Grace United Methodist Church, to 212". The intersection of Claymont Road with Rappahannock Road reaches a point of 210"; and Rappahannock Road reaches a width of 202". A standard tractor trailer truck width is 102.36", excluding side mirrors and safety equipment. A school bus is 96" wide, and a standard tour coach is 102" in width. If two sludge trucks, or a sludge truck and school or tour bus, met in oncoming traffic on either of those roads, one of the two would be forced off of the road, given the current road conditions. This poses an undue risk of HAZMAT incidents, serious injury to or death of VA public school children and local citizens, and extreme public road and environmental damage. VA Department of Transportation has not received a permit application for a road entry into this proposed facility; nor has the DOT conducted an environmental impact traffic study.
- E) The Odor Control Plan – CROPS, INC., for Rodney Rollins, directly states two malodor management initiatives which are currently in direct conflict with existing activities in the area. "Minimize operations during periods when potential odors may impact offsite receptors where outdoor activities are active (holidays/gatherings/special events). Should outdoor activities be observed (gatherings/special events) operations should be delayed to limit exposure." Westmoreland Berry Farm and the Voorhees Nature Preserve are in such close proximity to this proposed facility, and hold outdoor events nearly year-long for a minimum of ten hours per day, seven days per week, that based on the wording in the odor



control plan, it would inhibit the facility from operations for a minimum of 70 hours per week. Also, "Minimize queing of transport vehicles on public roads." There is no a way to minimize sewer sludge traffic on the public roads in discussion, as per issues cited in paragraph D, since there are no alternative routes into or out of the proposed facility. Since both of these statements, outlined in the odor control plan within the proposal paperwork, are contradictory to activities currently existing within the immediate community, it does not seem viable to locate the proposed facility at the Rappahannock Road site, and another location should be considered.

Please also view the enclosed signature page, including the names, addresses, and phone numbers of Westmoreland County citizens who are in agreement with the demands set forth in paragraph one of this letter. We greatly appreciate your timely response and consideration of all requests after reading this letter. Thank you for your time and understanding.

Sincerely,

Carla Jordan 1235 Berry Farm Lane Oak Grove, VA 22443 (540) 379-0096

*(Staff Note: Petition 1 received 12/16/2014, signed by 45 others; Petition 2 received 12/22/2014, signed by 84 others)*